

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TYRONE MCNEIL,)	
)	
Petitioner,)	
)	
v.)	1:11CV409
)	1:08CR305-1
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On March 28, 2013, the United States Magistrate Judge's Recommendation was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. Petitioner Tyrone McNeil filed objections to the Recommendation.¹ (Doc. 60.) He also filed a motion to amend his underlying section 2255 motion (Doc. 61) to add a claim, which the Magistrate Judge denied on several grounds (Doc. 62).

The court has reviewed Petitioner's objections and has made a *de novo* determination, which is in accord with the Magistrate

¹ Petitioner's objections note that he "recognizes now that the two claims for relief discussed in the Recommendation are not valid as determined by the Magistrate Judge" but Petitioner argues an additional ground of ineffective assistance of trial counsel leading to his entry of a plea (and later decision not to seek to withdraw his plea) which was not raised in the claims before the Magistrate Judge. (Doc. 60 at 1.) Petitioner sets forth that additional ground in his separate motion to amend, as noted above, which has been addressed separately by the Magistrate Judge. (Doc. 62.)

Judge's Recommendation. The Recommendation is therefore affirmed and adopted.

IT IS THEREFORE ORDERED that Petitioner's motion to vacate, set aside or correct sentence (Doc. 41) is DENIED and that this action is DISMISSED WITH PREJUDICE. Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is DENIED.

/s/ Thomas D. Schroeder
United States District Judge

June 12, 2013